

MANDATE

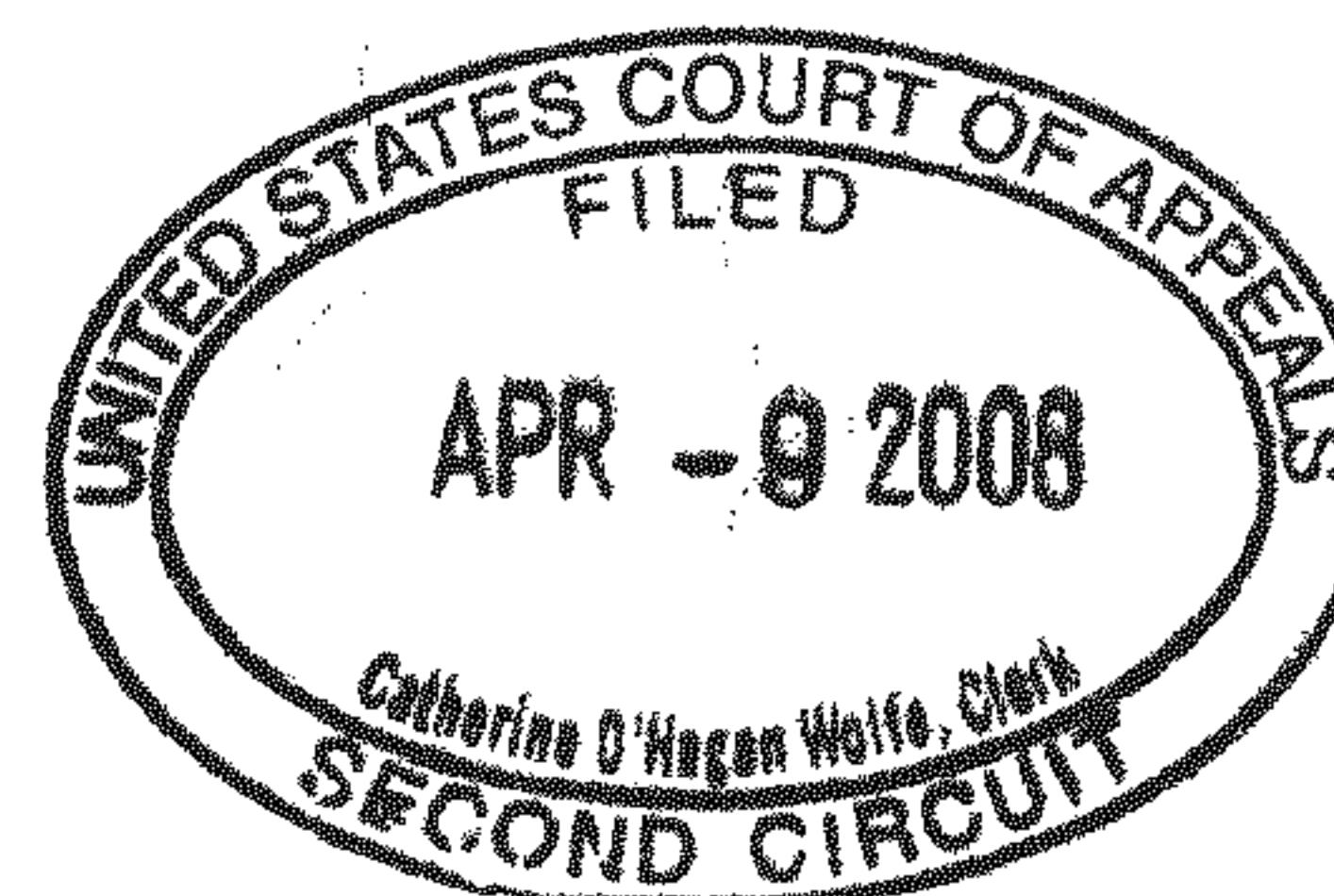
S.D.N.Y. - N.Y.C.
07-cv-4577
Wood, C. J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 9th day of April, two thousand eight,

Present:

Hon. Joseph M. McLaughlin,
Hon. Peter W. Hall,
Circuit Judges,
Hon. Leonard B. Sand,*
District Judge.



Jorge L. Linares,
Petitioner-Appellant,

v.

07-5623-pr

Brian Fischer,
Respondent-Appellee.

Appellant, *pro se*, moves for a certificate of appealability and to proceed *in forma pauperis*. Upon due consideration, it is hereby ORDERED that the motions are DENIED. We understand the district court's order of dismissal in this case to be without prejudice to the Appellant proceeding to exhaust his state court remedies. *See* C.P.L.R. 5015(a).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

By: 

*The Honorable Leonard B. Sand, United States District Court for the Southern District of New York, sitting by designation.

SAO-MGM

A TRUE COPY
Catherine O'Hagan Wolfe, Clerk
by _____

Issued as Mandate: 6/5/08 YC